

### **REMARKS**

Applicant respectfully requests reconsideration. Claims 60-111 were previously pending in this application. With filing a response to the Election/Restriction Requirement, Applicant provisionally elected the claims of Group I, with traverse (claims 60-91 and 107-111). By this amendment, Applicant is canceling claims 68-69, 71, 74, 84-85, and 87 without prejudice or disclaimer. Claims 60, 62, 65-66, 70, 81, 86, and 91 have been amended. No new claims have been added. As a result, claims 60-67, 70, 72-73, 75-83, 86, 88-91, and 107-111 are pending for examination with claims 60, 62, 81, and 91 being independent claims. No new matter has been added.

#### **Elections/Restrictions**

In the Office Action (paragraph 1) the previously raised restriction requirement was maintained and made final. Applicant previously provisionally elected the claims of Group I. Accordingly, the claims corresponding to Group II and Group III identified in the restriction requirement, claims 92-106, have now been withdrawn.

#### **Specification/Drawings**

The Examiner objects (paragraph 2) that Step 50 of Figure 3, though shown in the drawing, is not mentioned in the description. This is incorrect. The specification states at page 10, line 1:

“... and then streams **50** the update code on a preselected channel.” (Emphasis added.) This is an express reference to the “Network: New Code Streaming” step illustrated as element 50 in Figure 3.

Nevertheless, amendments to the above passage of the specification are submitted herewith to reference drawing element 50 more clearly.

In view of the amendments made to the specification, Applicant believes that no amendment to Figure 3 is necessary.

### **Claim objections**

In paragraphs 4-5 of the Office Action, the Examiner objects to claim 71, under 37 CFR 1.75(c), as being of improper dependent form. As set out above, claim 71 has now been cancelled. Accordingly, this objection is moot.

### **Claim Amendments**

Claim 60 has been amended to incorporate the features of former claims 68, 69, 71 and 74. Claim 60 thus now states that the at least one unique identifier comprises a string of bits or characters, that the unique identifier is a string of a first length and the key corresponds to a shorter length subset of the string of the first length; and that the shorter length subset of the string is of a selectable length. Claims 68, 69, 71 and 74 have accordingly been cancelled.

Corresponding amendments have been made to independent claims 62, 81 and 91. Corresponding dependent claims 84, 85 and 87 have been cancelled.

Minor amendments have been made to various claims in response to certain matters raised by the Examiner, as discussed below, to correct claim dependencies following cancellation of other claims, and for general clarity.

### **Claim Rejections - 35 USC 112**

Claims 65, 70 and 86 stand rejected (paragraph 7 of the Office Action) under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Though not mentioned in paragraph 7 of the Office Action, claim 92 is apparently also rejected on those grounds (see paragraph 10).

According to paragraph 8 of the Office Action, the phrase “substantially arbitrarily” renders claim 65 unclear. This phrase has been deleted.

According to paragraph 9 of the Office Action, the phrase “is at least about” renders claims 70 and 86 unclear. Accordingly, the term “about” has been deleted in claims 70 and 86.

According to paragraph 10 of the Office Action, claim 92 is unclear. Claim 92 has been withdrawn in response to the restriction requirement (see above), so this objection is moot.

In view of those actions, the Section 112 rejections should now be withdrawn.

#### **Claim Rejections - 35 USC 102**

Claims 60-69, 72-85, 91 and 111 have been rejected under 35 U.S.C. §102(e) as purportedly being anticipated by Yuhara. These rejections do not apply to the amended claims, and should be withdrawn.

Yuhara discloses a system for broadcasting datagrams to receivers installed in vehicles. The datagram may include identifiers for identifying recipients of the datagram (paragraph 0034). In one example, an individual identifier may specifically identify an individual receiver for the datagram (paragraph 0035). In another example, a group identifier may identify a group of receivers (paragraph 0036). The receiver locally stores an individual identifier and one or more group identifiers (and possibly other identifiers, paragraph 0044). The receiver compares a received group identifier to a locally stored group identifier to determine if the recipient receiver is an intended recipient of the datagram (paragraph 0031). Thus, each recipient belonging to a group must locally store (in addition to its individual identifier) the same group identifier to allow messages addressed to that group to be identified. If the sender wishes to send the datagram to a new group of receivers, it is first necessary to ensure that each receiver is configured with the corresponding group identifier, and Yuhara describes a separate process for

changing assigned group identifiers to achieve this (paragraph 0032; Figure 5, steps 516 and 518, paragraph 0058).

However, there is no disclosure in Yuhara of a unique identifier which is a string of a first length and wherein a key for matching at least a portion of the unique identifier is included in transmitted data which corresponds to a shorter length subset of the string of the first length, and wherein the shorter length subset of the string is of a selectable length, all as required by amended claim 60.

Thus, in contrast with Yuhara, in the invention of claim 60, membership of the set of receivers intended to receive data is determined based on matching a key corresponding to a shorter length subset of devices' unique identifier strings (not, as in Yuhara, based on separate group identifiers). In other words, if the key matches a shorter length portion of a device's unique identifier, then that device is included in the set of devices which are intended to receive the data. This can remove the need for pre-configuring devices with group identifiers as in Yuhara.

Furthermore, as recited in claim 60, the shorter length subset is a string of a selectable length. Advantageously, this may enable a network operator to distribute data to a particular set of devices each having a unique identifier, wherein the number of selected devices in the set can be controlled by varying the length of the matching key. This may allow selective updates of different numbers of devices without requiring each device to store and manage a plurality of different identifiers (Yuhara, by way of contrast, teaches storing multiple separate group identifiers; see paragraph 0044).

In the Office Action, the Examiner asserts in relation to claim 69 that the feature (now incorporated into claim 60) "wherein the unique identifier is a string of a first length and the set of devices is determined from a shorter length subset of the string of the first length" is taught in paragraph 0044 lines 8-16 of Yuhara. Applicant disagrees. This passage merely discloses that a

locally stored individual identifier may be a unique serial number of the receiver and that one or more group identifiers may also be (separately) stored, as already discussed above. There is no suggestion that the group identifiers are related to the individual identifier in any way. Therefore, this does not amount to a disclosure of enabling the selection of devices based on a shorter length subset of a unique device identifier as in the present invention.

Further, on pages 17-18 of the Office Action, the Examiner takes Official Notice regarding the feature "wherein the shorter length subset of the string is of a selectable length", previously recited in claim 71 and now incorporated into claim 60, asserting that this feature is arbitrary "because Applicant has not disclosed that having the shorter length subset of the string is of a selectable length provides an advantage, is used for a particular purpose, or solves a stated problem." Such so-called "Official Notice" is an improper conclusion, not a fact, and Applicant disagrees. Contrary to the assertions of the Examiner, the advantages of this feature are set out in the specification: for example, at page 3, lines 11-13 and page 11, lines 13-25 of the application, they have also been discussed above. In particular, by having the shorter length subset of the string being of selectable length, it is possible to vary the number of devices whose unique identifier will match the variable-length key and who will thus be selected to receive the data. Thus this feature clearly is not arbitrary, does provide an advantage, and is used for a particular purpose (varying the size of the receiver set).

Thus, Yuhara fails to disclose or suggest enabling the selection of devices based on a key corresponding to a shorter length subset of unique device identifiers, wherein the shorter length subset is a string of a selectable length as required by claim 60.

For completeness it is additionally noted that the other reference cited by the Examiner, Wasilewski, relates to a conditional access system for a cable television service in which access to services is controlled using encryption, and also fails to disclose or suggest these features.

For at least the above reasons, the prior art does not anticipate the subject matter of claim 60.

Independent claims 62, 81 and 91 include limitations corresponding to those discussed above in relation to claim 60 and are patentably distinct over the cited reference for the same reasons.

Dependent claims 61, 63-67, 72-73, 75-80, 82-83 and 111 depend from one of the above-referenced independent claims and include limitations corresponding to those discussed above by virtue of their dependency. They therefore patentably distinguish over the cited references, at least for the reasons given above. Claims 68-69, 74 and 84-85 have been cancelled.

#### **Claim Rejections - 35 USC 103**

In the Office Action, the Examiner rejected claims 88-89 and 107-109 under 35 U.S.C. §103(a) as obvious over Yuhara in view of Wasilewski.

Claims 88-89 depend from independent claim 81. Claims 107-109 depend directly or indirectly from independent claim 60. As described in the previous section, Wasilewski does not cure the deficiencies of Yuhara with regard to independent claims 60 and 81. Accordingly, claims 88-89 and 107-109 are patentable over a combination of Yuhara and Wasilewski at least in view of their dependence from claims 60 and 81, respectively.

Further, the Examiner rejected claims 70-71, 86-87, 90 and 110 under 35 U.S.C. §103(a) as obvious over Yuhara in view of Known Practices in the Art. The Examiner takes Official Notice regarding claims 70-71, 86-87, 90 and 110, asserting that these claims are obvious based upon Yuhara and Known Practices in the Art. The Applicant respectfully disputes the taking of Official Notice.

As indicated in MPEP 2144.03, it is not appropriate for an Examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. Indeed, the MPEP states that it is “never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based.” MPEP 2144.03 (citing *In re Zurko*, 258 F.3d 1379, 1385 (Fed. Cir. 2001)). “Rather, the Board[Office] must point to some concrete evidence in the record in support of these findings.” *Id.* Here, there is no common knowledge supporting the rejections of claims 70-71, 86-87, 90 and 110, as evidenced both by the Office Action admitting that these claims describe aspects not found in Yuhara and (in relation to claims 71 and 87) by Applicant’s remarks provided above regarding the advantages provided by the claimed features. Accordingly, pursuant to MPEP 2144, Applicant requests evidence to support any rejection for obviousness. In the absence of such evidence, the rejection must be withdrawn.

Furthermore, Claims 71 and 87 have been cancelled (see above). Claims 70 and 110 depend from independent claim 60 and Claims 86 and 90 depend from independent claim 81. Claims 70, 86, 90 and 110 are thus patentable for the reasons previously set forth, at least in view of their dependence from independent claims 60 and 81.

Serial No.: 10/561,428  
Conf. No.: 6357

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### CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. M0274.70040US00.

Respectfully submitted,

By:



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Docket No.: M0274.70040US00  
Date: June 16, 2009  
**x06/25/2009x**